

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

LINDA A. FRY,

Plaintiff,

v.

16-CV-337
DECISION AND ORDER

CAROLYN W. COLVIN,

Defendant.

On April 29, 2016, the plaintiff commenced this action. Docket Item 1.

On October 26, 2016, this Court referred this case to United States Magistrate Judge Michael J. Roemer for all proceedings under 28 United States Code Section 636(b)(1)(A) and (B). Docket Item 11. On November 4, 2016, the plaintiff moved for judgment on the pleadings, Docket Item 12; on January 9, 2017, the defendant responded and moved for judgment on the pleadings, Docket Item 13; and on January 30, 2017, the plaintiff replied, Docket Item 14. On November 1, 2017, Judge Roemer issued a Report and Recommendation finding that the plaintiff's motion should be granted and that the defendant's motion should be denied. Docket Item 15. The parties did not object to the Report and Recommendation, and the time to do so now has expired. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a de novo review of those portions of a magistrate judge's recommendation to which objection is made. 28 U.S.C. § 636(b)(1);

Fed. R. Civ. P. 72(b)(3). But neither 28 United States Code Section 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. See *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Although not required to do so in light of the above, this Court nevertheless has carefully reviewed Judge Roemer's Report and Recommendation. Based on that review and the absence of any objections, the Court accepts and adopts Judge Roemer's recommendation to grant the plaintiff's motion and deny the defendant's motion.

For the reasons stated above and in the Report and Recommendation, the plaintiff's motion for judgment on the pleadings, Docket Item 12, is GRANTED; the defendant's motion for judgment on the pleadings, Docket Item 13, is DENIED; and the matter is REMANDED for further administrative proceedings consistent with the Report and Recommendation. The Clerk of the Court is instructed to close the file.

SO ORDERED.

Dated: December 11, 2017
Buffalo, New York

s/Lawrence J. Vilardo
LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE